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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,481

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EXAMINER

MULLER, BRYAN R

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

11/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,481	ELSWORTHY ET AL.	
	Examiner	Art Unit	
	Bryan R. Muller	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/14/05, 3/6/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "37". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "19" has been used to designate both a cleaning head and a pivotal connection. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:
 - a. Reference number “19” has been used to designate both a cleaning head and a pivotal connection, initially disclosed in lines 9 and 12 of page 5 of the specification.
 - b. The reference number “37” in line 24 of page 6 of the specification is not included in the drawings.Appropriate correction is required.

Claim Objections

4. Claim 1 is objected to because of the following informalities:
 - a. The term “dust separating/collecting means” is unclear. The word “means” is generally only used in claims when invoking 35 U.S.C. 112, sixth paragraph. However, the “dust separating/collecting means” is not accompanied by “means to” or “means for” language, which is required to meet the 3-prong analysis to effectively invoke 35 U.S.C. 112, sixth paragraph. Thus, it is suggested that the applicant change the term “dust separating/collecting means” to “dust separating/collecting mechanism” or some equivalent thereof.

b. The limitation “there is a releasable catch means providing for the wand with cleaning head attached to be releasably connected” is unclear. It is suggested that the applicant replace the phrase “with cleaning head attached” in line 5 of claim 1 to “and cleaning head” and to replace the limitations “a wand; and a cleaning head” in line 3 of claim 1 with “a wand with a cleaning head attached thereto”.

Appropriate correction is required.

5. Claim 7 is objected to because of the following informalities: the limitation of lines 4 and 5 of claim 7 is unclear. As best understood by the Examiner, the applicant is intending to claim that the first catch formation on the main unit includes a spring to bias the wand. Therefore, it is suggested by the Examiner that the applicant change line 5 of claim 7 from “head, and spring biased to bias the wand so as to urge the second catch” to “head and a spring to bias the wand so as to urge the second catch”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 1,2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimi et al. (6,058,559).

8. In reference to claim 1, Yoshimi discloses a suction cleaner of the cylinder type comprising a main unit (1) including a source of suction and a dust separating/collecting mechanism; a flexible hose (6), a wand (2) with a cleaning head (5) attached thereto; wherein the main unit is able to be stood on its end and there is releasable catch means (1c, 1d, 4d and 10) providing for the wand and cleaning head to be releasably connected to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess provided in the main unit (parts 4d and 10 are both considered to be part of the wand, and are both positioned within respective recesses, 1c and 1d, which are part of the main body).

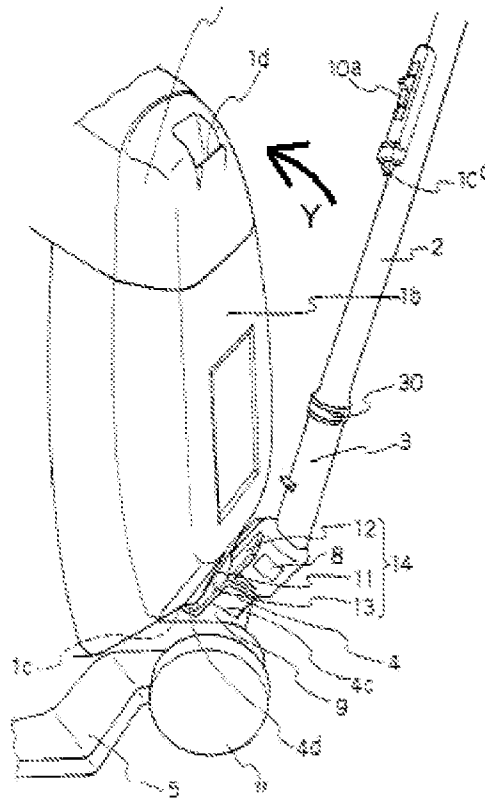
9. In reference to claim 2, the structure disclosed by Yoshimi, providing a support (4d) beneath the main unit, will inherently allow a user to lift the main unit by using the wand as a handle when the wand is connected to the main unit.

10. In reference to claim 4, Yoshimi further discloses that the catch means comprises first inter-engaging catch formations (1c and 4d) provided respectively on the main unit and on the cleaning head (5) and second inter-engaging catch formations (1d and 10) provided respectively on the main unit and on the wand spaced from the cleaning head.

11. In reference to claim 5, Yoshimi further discloses that, to engage the first and second catch formations, a user would inherently have to place the main unit (1) onto the first catch structure (4d) on the cleaning head, which will be moving the wand upwardly relative to the main unit, and then pivot the wand relative to the main unit (in

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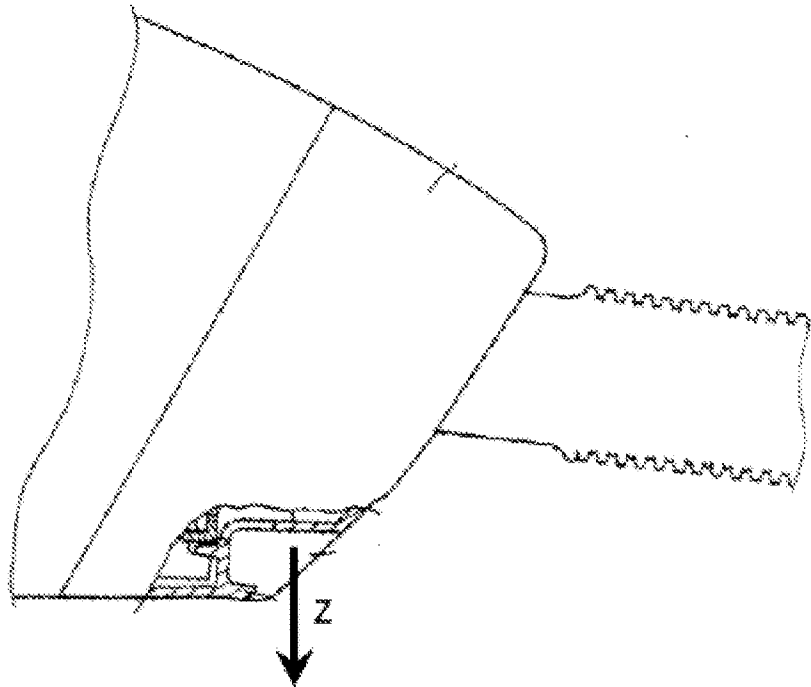
the direction of arrow Y below), which inherently includes a vector of movement upward relative to the main unit. Therefore, the second catch formations of Yoshimi are engagable by an upward movement of the wand, both immediately prior to (during placement of main unit on formation 4d) and during engagement (rotational motion having vector of movement upward) of the formation (10) on the wand with formation (1d) on the main unit.



12. In reference to claim 6, the second catch formation (1d) on the main unit is a recess that may be considered to be downwardly facing (as shown by arrow Z below) when the main unit is in the orientation to be used as a separate canister, wherein the lower surface 1b is positioned on or parallel to the ground (shown in Fig. 13), and the

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wand comprises a complementary projection (10) that is engagable with the recess (1d).



13. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Busalt et al. (GB 2128075A).

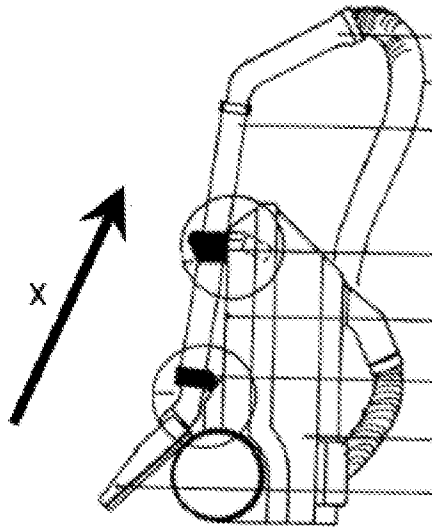
14. In reference to claim 1, Busalt discloses a suction cleaner of the cylinder type comprising a main unit (1) including a source of suction and a dust separating/collecting mechanism; a flexible hose (2), a wand (4) with a cleaning head (5) attached thereto; wherein the main unit is able to be stood on its end and there is releasable catch means (shown in Figures 2 and 3) providing for the wand and cleaning head to be releasably connected to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess provided in the main unit (part 11, which is

considered to be a part of the wand, and a portion of the wand 4 are both positioned within respective recesses within catch means 7 and 8, which are part of the main body).

15. In reference to claim 3, Busalt further discloses that said recess is on the underside of the main unit when the main unit is in its normal use orientation.

16. In reference to claim 4, Busalt further discloses that the catch means comprises first inter-engaging catch formations (7 and 11) provided respectively on the main unit and on the wand in the vicinity of the cleaning head and second inter-engaging catch formations (8 on the main body and the wand itself, or outer circumference thereof is considered to be the second catch formation on the wand) provided respectively on the main unit and on the wand spaced from the cleaning head.

17. In reference to claim 5, the second catch formations (8 and the outer circumference of the wand, which is spaced away from the cleaning head) are inherently capable of being engagable by an upward movement of the wand relative to the main unit, having regard to the orientation of the main unit when it is stood on its end. In the orientation of the main body, shown in Fig. 1, the wand may be moved upwardly and toward the bottom of the main unit (in the general direction of arrow X, shown below) in order to engage the second catch formations.



Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Busalt et al. (GB 2128075A) in view of Barski (DE 3834686 C1).

20. Busalt discloses the suction cleaner, as discussed supra, having a second catch formation toward the top of the main unit (when in an upright orientation), but fails to disclose that the second catch formation is associated with a castor assembly. Barski discloses a similar vacuum cleaner having a catch formation (12, 13) toward the top of a main unit (when in an upright orientation), and teaches that the catch formation may be associated with a castor assembly (2) to allow the main unit to smoothly and easily move

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across the floor when being used as a separate canister unit. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the second catch formation on the main unit of Busalt with the castor/catch formation of Barski to allow the main unit to smoothly and easily roll across a surface while being used as a canister unit, separated from the wand and cleaning head.

Allowable Subject Matter

21. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and to correct the minor formalities, as discussed *supra*.

22. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record (considered as a whole) neither anticipates nor renders obvious a vacuum cleaner having a first catch formation on a main unit that faces upwardly to engage a complementary formation on a vacuum wand or head and a spring biasing the wand so as to urge a second catch formation into engagement in combination with the rest of the limitations set forth in the combination of all claims from which claim 7 depends.

23. Bach et al. (5,125,127) is considered to be the closest prior art of record in reference to the claimed first catch formation from claim 7. However, although the catch formation (12) is biased upward relative to the main body by resilient member (17) and does engage a catch formation (7) on the wand, Bach specifically discloses that the

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biasing force provided by resilient member (17) is less than the force exerted by the hook (catch formation 7) on the spring arm. Therefore, the biasing spring disclosed by Bach is not capable of biasing the wand in a direction to urge a second catch formation into engagement.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dyson (4,571,772), Kim (6,374,453), Bach et al. (5,125,127) and Barker et al. (2005/0028317) all disclose vacuum cleaners having similar structure and function as the applicant's claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R. Muller whose telephone number is (571) 272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bryan R Muller/
Examiner, Art Unit 3723
11/13/2007